

**Effective 7/17/2016**

**59-10-1014 Nonrefundable renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.**

(1) As used in this section:

- (a)
  - (i) "Active solar system" means a system of equipment that is capable of:
    - (A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and
    - (B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.
  - (ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.
- (b) "Biomass system" means a system of apparatus and equipment for use in:
  - (i) converting material into biomass energy, as defined in Section 59-12-102; and
  - (ii) transporting the biomass energy by separate apparatus to the point of use or storage.
- (c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.
- (d) "Geothermal electricity" means energy that is:
  - (i) contained in heat that continuously flows outward from the earth; and
  - (ii) used as a sole source of energy to produce electricity.
- (e) "Geothermal energy" means energy generated by heat that is contained in the earth.
- (f) "Geothermal heat pump system" means a system of apparatus and equipment that:
  - (i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and
  - (ii) helps meet heating and cooling needs of a structure.
- (g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:
  - (i) intercepting and converting kinetic water energy into electrical or mechanical energy; and
  - (ii) transferring this form of energy by separate apparatus to the point of use or storage.
- (h) "Office" means the Office of Energy Development created in Section 63M-4-401.
- (i)
  - (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.
  - (ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.
- (j)
  - (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.
  - (ii) "Principal recovery portion" does not include:
    - (A) an interest charge; or
    - (B) a maintenance expense.
- (k) "Residential energy system" means the following used to supply energy to or for a residential unit:
  - (i) an active solar system;
  - (ii) a biomass system;
  - (iii) a direct use geothermal system;

- (iv) a geothermal heat pump system;
  - (v) a hydroenergy system;
  - (vi) a passive solar system; or
  - (vii) a wind system.
- (l)
- (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:
    - (A) is located in the state; and
    - (B) serves as a dwelling for a person, group of persons, or a family.
  - (ii) "Residential unit" does not include property subject to a fee under:
    - (A) Section 59-2-404;
    - (B) Section 59-2-405;
    - (C) Section 59-2-405.1;
    - (D) Section 59-2-405.2; or
    - (E) Section 59-2-405.3.
- (m) "Wind system" means a system of apparatus and equipment that is capable of:
- (i) intercepting and converting wind energy into mechanical or electrical energy; and
  - (ii) transferring these forms of energy by a separate apparatus to the point of use or storage.
- (2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.
- (3)
- (a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the claimant, estate, or trust owns or uses if:
    - (i) the claimant, estate, or trust:
      - (A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or
      - (B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;
    - (ii) the residential energy system is completed and placed in service on or after January 1, 2007; and
    - (iii) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (4).
  - (b)
    - (i) Subject to Subsections (3)(b)(ii) through (vi), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses.
    - (ii) A tax credit under this Subsection (3) may include installation costs.
    - (iii) A claimant, estate, or trust may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.
    - (iv) If the amount of a tax credit under this Subsection (3) exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the tax credit exceeding the liability may be carried forward for a period that does not exceed the next four taxable years.
    - (v) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed \$2,000 per residential unit.
    - (vi) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the

total amount of tax credit the claimant, estate, or trust claims does not exceed \$2,000 per residential unit.

(c)

- (i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.
- (ii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential energy system may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.
- (iii) A claimant, estate, or trust described in Subsection (3)(c)(i) that leases a residential energy system may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.
- (d) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under this Subsection (3):
  - (i) the claimant, estate, or trust may assign the tax credit to the other person; and
  - (ii)
    - (A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59-7-614 to claim the tax credit; or
    - (B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(4)

- (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.
  - (b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:
    - (i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and
    - (ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:
      - (A) has been completely installed;
      - (B) is a viable system for saving or producing energy from renewable resources; and
      - (C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:
    - (i) for determining whether a residential energy system meets the requirements of Subsection (4)(b)(ii); and
    - (ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.
  - (d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

- (6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.
- (7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Amended by Chapter 1, 2016 Special Session 3